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December 12, 2011

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: WC Docket No. 11-42 - Lifeline and Link Up Reform and Modernization
NOTICE OF EX PARTE PRESENTATION

Dear Ms. Dortch:

This letter is submitted on behalf of TracFone Wireless, Inc. ("TracFone") in response to two recent submissions in the above-captioned proceeding. The first submission, dated December 7, 2011, is a letter from Sharon E. Gillett, Chief, Wireline Competition Bureau, memorializing a December 5 teleconference with several state commissioners and with Brad Ramsay, General Counsel of the National Association of Regulatory Utility Commissioners (a group referred to as the "ETC State Coordinating Group"). The second letter, dated December 8, 2011, is from Mary C. Albert on behalf of the Competitive Telecommunications Association ("CompTel") and memorializes a meeting between CompTel's Board Chairman, Dale Schmick, and Angela Kronenberg, Legal Advisor to Commission Mignon Clyburn.

The subject of those two letters is the impact of the Commission's recent decision to delete from the codified list of Universal Service Fund-supported services directory assistance and operator assistance. That deletion was articulated in the Commission's Universal Service Fund/Intercarrier Compensation Reform Order (In the Matter of Connect America Fund, *et al*, FCC 11-161, released November 18, 2011). The rule change is codified at 47 C.F.R. §54.101(a) and will become effective December 29, 2011. As noted in the Bureau's letter, once the rule change becomes effective a carrier seeking designation as a Lifeline-only Eligible Telecommunications Carrier ("ETC") will not be able to meet the facilities requirement of 47 U.S.C. §214(e)(1)(A) if it uses its own facilities only to provide operator assistance and directory assistance.

In its letter, CompTel asserts that there is now a "lack of clarity in the meaning of 'voice telephony' and 'facilities-based' for purposes of Section 214(e)(1)(A)." It further asks that already-designated ETCs not have their ETC designations jeopardized by the rule change.

TracFone respectfully disagrees with CompTel's characterization of a "lack of clarity." It is difficult to imagine a more clear, more cogently-articulated statement of the rule than that codified in the amended Section 54.101(a) and the Commission's concise explanation set forth at paragraph 78 of the USF/ICC Reform Order. Unless carriers are using

their own facilities to provide services that remain on the list of supported services, they do not meet the Section 214(e)(1)(A) (and 47 C.F.R. § 54.201(i)) facilities-based requirement and must therefore obtain Commission forbearance pursuant to Section 10 of the Communications Act (47 U.S.C. § 160). Since directory assistance and operator assistance no longer will be among the services supported by the Universal Service Fund, use of a carrier's own facilities to provide only those services will no longer qualify those carriers for Universal Service support without forbearance.

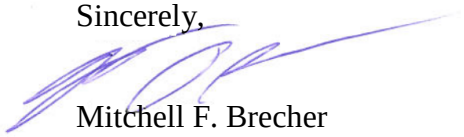
The Commission -- not CompTel -- should determine whether to afford the amendment of Section 54.101(a) retroactive effect. However, since the rule merely implements a statutory requirement, it is difficult to conclude that carriers may be ETCs without first obtaining forbearance unless they provide services supported by the USF using, at least in part, their own facilities. If a Lifeline provider is not using its own facilities to provide any of the services supported by the Universal Service Fund, then that provider is not providing Lifeline-supported service, at least in part, using its own facilities. If carriers are using their own facilities only to provide services which are not supported by the Universal Service Fund (such as directory assistance and operator assistance), then they are statutorily prohibited from being receiving Universal Service support absent forbearance.

In TracFone's view, principles of non-discrimination, competitive neutrality and fundamental fairness, as well as the language of 47 U.S.C. § 214(e)(1)(A), compel that all ETCs be subject to the same requirements. If an ETC is no longer providing Lifeline-supported service using its own facilities or a combination of its own facilities and resale of another carrier's facilities, then it is statutorily prohibited from receiving Universal Service support. It would be no different if a carrier became designated as an ETC based on its then-use of its own facilities to provide Lifeline-supported service, but after obtaining designation ceased using its own facilities to provide any of the Lifeline-supported services.

Throughout this proceeding, TracFone has consistently asserted that rules and conditions governing ETC designation and provision of Lifeline and Link Up-supported service should not differ based on whether a specific ETC was "facilities-based" or a "reseller." If the Commission eliminates those artificial distinctions and promulgates uniform rules for Lifeline and Link Up that do not impose different requirements or conditions based on facilities ownership than the concern expressed by CompTel will become insignificant, other than the fact that such carriers will be required to obtain Commission forbearance from Section 214(e)(1)(A) of the Communications Act and Section 54.201(i) of the Commission's rules.

Pursuant to Section 1.1206(b) of the Commission's rules, this letter is being filed electronically. If there are questions, please communicate directly with undersigned counsel for TracFone.

Sincerely,



Mitchell F. Brecher

cc: Ms. Sharon Gillett
Mr. Trent Harkrader
Ms. Kimberly Scardino
Mr. Jonathan Lechter
Ms. Jamie Susskind
Ms. Angela Kronenberg